

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION**

In re:

**Charlie L. Manning, Jr. and
Debbie C. Manning,**

Bankruptcy Case No.: 10-81710

Soc. Sec. Nos. xxx-xx-9558 & xxx-xx-3246

Mailing Address: 907 Cartman Drive,
Durham, NC 27704

Debtors.

**Charlie L. Manning, Jr. and
Debbie C. Manning,**

A.P. No.: 11-09055

Plaintiffs,

**U.S. Department of Housing
and Urban Development**

Defendant.

**CONSENT JUDGMENT DETERMINING THE EXTENT
OF THE SECURED STATUS OF THE THIRD DEED OF TRUST HELD BY
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

THIS MATTER having come before this Court, and upon due consideration,

IT APPEARING to this Court that this matter is a core proceeding pursuant to 28 U.S.C. Section 157; and that this Court has jurisdiction pursuant to 28 U.S.C. Sections 151, 157 and 1334, and

IT APPEARING to this Court that the Defendant in this proceeding, and all other parties in interest, were duly served with the Complaint, and have appeared before this Court; and

IT FURTHER APPEARING that this action was properly commenced, in accordance with Section 506 of the Bankruptcy Code and Section 7001 of the Bankruptcy Rules, to value collateral and to determine the secured status of a claim held by the Defendant U.S. Department of Housing and Urban Development;

IT IS THEREFORE ADJUDGED, ORDERED AND DECREED, UPON CONSENT

OF ALL PARTIES, AS ATTESTED TO BY THE UNDERSIGNED SIGNATURES OF THEIR RESPECTIVE COUNSEL, that Defendant has a valid third Deed of Trust by assignment against the property located at 907 Cartman Drive, Durham, NC 27704 owned by Debtors Charlie L. Manning, Jr. And Debbie C. Manning, in the amount of \$3,776.80 as of June 15, 2011. The original third Deed of Trust was recorded on September 15, 2008 in Book 6058, Page 94, Durham County Registry of Deeds.

IT IS FURTHER ORDERED that Defendant's third Deed of Trust in the Chapter 13 proceeding of the above Plaintiffs shall be abrogated and null and void if the Plaintiffs complete the Chapter 13 Plan and receive an Order of Discharge pursuant to 11 U.S.C. Section 1328(a).

IT IS FURTHER ORDERED that the said claim held by U.S. Department of Housing and Urban Development is deemed to be an unsecured claim, to be treated as an unsecured claim in the Plaintiffs' Chapter 13 plan;

IT IS FURTHER ORDERED that upon successful completion of the Chapter 13 Plan and receipt of an Order of Discharge pursuant to 11 U.S.C. Section 1328(a), the Defendant's third Deed of Trust shall be terminated.

IT IS FURTHER ORDERED that in the event the Plaintiffs refinance the loans on the subject property or sell the subject property prior to the completion of the Chapter 13 case and receipt of a Chapter 13 discharge, then the Defendant's third Deed of Trust will be paid in full at closing unless a lesser amount is agreed to by the parties.

IT IS FURTHER ORDERED that in the event that the Plaintiffs' Chapter 13 case is dismissed or converted to another Chapter of the Bankruptcy Code, this Judgment shall be deemed null and void, in which case the lien of the Defendant shall be deemed to be reinstated retroactively, as if this Judgment had never been entered.

IT IS FURTHER ORDERED that in the event that debtors fail to complete the Chapter 13 Plan and obtain a Chapter 13 discharge order in bankruptcy case number 10-81710, this order does not affect the validity or enforceability of Defendant's third Deed of Trust and may not be used in any subsequent bankruptcy case of the debtor either to compel the holder of the third Deed of Trust to execute a discharge of the third Deed of Trust, or to otherwise act as a discharge of the third Deed of Trust.

IT IS FURTHER ORDERED that upon completion of the debtor's Chapter 13 Plan and the entry of a Chapter 13 discharge order, the debtors may record a certified copy of this order, with a copy of the debtors' Chapter 13 discharge order attached, with the Durham County Registry of Deeds, which will constitute and effectuate the discharge of the third Deed of Trust.

IT IS FURTHER ORDERED that no costs or attorney fees will be assessed against either party, that entry of this Judgment shall finalize all matters concerning this adversary proceeding, and once this Judgment has been entered, this adversary proceeding shall be considered closed.

Dated: July 8, 2011

CONSENTED TO:

s/ Edward Boltz
Edward Boltz NCSB # 23003
6616-203 Six Forks Road
Raleigh, NC 27615
(919) 847-9750
Attorney for Debtors/Plaintiffs

RIPLEY RAND
United States Attorney

s/Joan B. Binkley
Joan B. Binkley NCSB #18100
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Attorney for Defendant

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DEPUTY CLERK'S CERTIFICATE OF SERVICE

THIS IS TO CERTIFY that on the below date, the undersigned Deputy Clerk served a copy of the **CONSENT JUDGMENT** entered _____, by depositing the same, enclosed in a postpaid wrapper, and or Electronically addressed to the following parties in interest, at their last known addresses as shown below, in a post office or official depository under the exclusive care and custody of the United States Postal Service:

Richard M. Hutson, II
Chapter 13 Trustee
Post Office Box 3613
Durham, N C 27702

Michael D. West
U.S. Bankruptcy Administrator
PO Box 1828
Greensboro, NC 27402

Joan B. Binkley
United States Attorney's Office-MDNC
Post Office Box 1858
Greensboro, NC 27402

Edward Boltz, Attorney
6616-203 Six Forks Road
Raleigh, NC 27615